

FORM 104 (10/06)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS The Blanco National Bank	DEFENDANTS Basil Paul Casteleyn	
ATTORNEYS (Firm Name, Address, and Telephone No.) Hayden & Cunningham, PLLC 750 Broadway San Antonio, Texas 78209	ATTORNEYS (If Known) Chance M. McGhee 909 N.E. Loop 410, Suite 100 San Antonio, Texas 78209	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Dischargeability Objection 11U.S.C. sec. 523(a)(2)(B)		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>FRBP 7001(1) – Recovery of Money/Property</p> <p><input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property</p> <p><input type="checkbox"/> 12-Recovery of money/property - §547 preference</p> <p><input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer</p> <p><input type="checkbox"/> 14-Recovery of money/property - other</p> <p>FRBP 7001(2) – Validity, Priority or Extent of Lien</p> <p><input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property</p> <p>FRBP 7001(3) – Approval of Sale of Property</p> <p><input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)</p> <p>FRBP 7001(4) – Objection/Revocation of Discharge</p> <p><input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)</p> <p>FRBP 7001(5) – Revocation of Confirmation</p> <p><input type="checkbox"/> 51-Revocation of confirmation</p> <p>FRBP 7001(6) – Dischargeability</p> <p><input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims</p> <p><input checked="" type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud</p> <p><input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny</p> <p style="text-align: center;">(continued next column)</p> </div> <div style="width: 48%;"> <p>FRBP 7001(6) – Dischargeability (continued)</p> <p><input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support</p> <p><input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury</p> <p><input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan</p> <p><input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)</p> <p><input type="checkbox"/> 65-Dischargeability - other</p> <p>FRBP 7001(7) – Injunctive Relief</p> <p><input type="checkbox"/> 71-Injunctive relief – reinstatement of stay</p> <p><input type="checkbox"/> 72-Injunctive relief – other</p> <p>FRBP 7001(8) Subordination of Claim or Interest</p> <p><input type="checkbox"/> 81-Subordination of claim or interest</p> <p>FRBP 7001(9) Declaratory Judgment</p> <p><input type="checkbox"/> 91-Declaratory judgment</p> <p>FRBP 7001(10) Determination of Removed Action</p> <p><input type="checkbox"/> 01-Determination of removed claim or cause</p> <p>Other</p> <p><input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i></p> <p><input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)</p> </div> </div>		
<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$	
Other Relief Sought		

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE:	§	
	§	
BASIL PAUL CASTELEYN	§	CASE NO. 10-53054-lmc
Debtor	§	
	§	
THE BLANCO NATIONAL BANK	§	CHAPTER 7
Plaintiff	§	
v.	§	
	§	ADVERSARY NO.
BASIL PAUL CASTELEYN	§	
Defendant	§	<hr style="width: 200px; margin-left: 0;"/>

**ORIGINAL COMPLAINT TO DETERMINE DISCHARGEABILITY
OF DEBT PURSUANT TO 11 U.S.C. § 523 (a)(2)(B)**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

The Blanco National Bank , Claimant herein, files this, its Original Complaint to Determine Dischargeability of Debt complaining of Basil Paul Casteleyn based on The Blanco National Bank's claim as set forth in its First Amended Proof of Claim on September 8, 2010 and for cause, would show the following:

1. Defendant is an individual who filed a petition for relief under Chapter 7 of the Bankruptcy Code on August 9, 2010.
2. Plaintiff is a creditor of the Defendant as defined in 11 U.S.C. § 101 and is owed certain debts or obligations as set forth below and in the proof of claim filed in the bankruptcy proceeding.
3. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157(b)(2) and 1334, 11 U.S.C. § 523(a)(2) and Federal Rule of Bankruptcy Procedure 7001(6).
4. This is a core proceeding under 28 U.S.C. § 157(b)(2)(I). Venue is proper under 28 U.S.C. § 1409(a).
5. In September, 2006 Defendant provided Plaintiff with a personal Financial Statement dated September 18, 2006 for the purpose of obtaining a loan from Plaintiff (the "2006 Financial Statement").

6. Plaintiff relied on the financial information in the 2006 Financial Statment and on or about September 22, 2006 Plaintiff loaned Majestic Creations, Inc., Kenneth Deckard, Individually and Defendant, Basil P. Castleyn, Individually \$1,110,000.00 by means of a Promissory Note (the "Note"). The Note was secured by a Deed of Trust naming the following property as collateral:

BEING Lots 37, 48, 71, 93, 116, 118, 127, 148, 160, 162, 163, 176 and 185, BRIDLEGATE, UNIT ONE, BANDERA County, Texas, according to plat recorded in Volume 6, Pages 343-355, Plat Records, BANDERA County, Texas
7. On or about July 3, 2007 the Note was in default due to non-payment. Plaintiff made demand upon Defendant to bring the Note current.
8. On or about July 20, 2007 the Note remained in default and the Note was accelerated pursuant to its terms. At the time of acceleration, the outstanding principal due on the Note was \$1,110,100.00.
9. A second Financial Statement was provided by Defendant to Plaintiff dated June 1, 2007 (the "2007 Financial Statement").
10. On or about October 1, 2007 Defendant paid all past due and accrued interest on the Note and the Note was reinstated pursuant to a Reinstatement, Modification Renewal and Extension agreement executed by all parties to the Note. Plaintiff relied on the 2007 Financial Statement when entering into the Reinstatement, Modification, Renewal and Extension Agreement.
11. The Note was again in default and it was accelerated by Plaintiff pursuant to its terms and directed one of the appointed substitute trustees under the Deed of Trust to post the property for foreclosure.
12. On or about February 5, 2008 a foreclosure sale was conducted for the property subject to the Deed of Trust. After the sale, there was a Deficiency of \$354,295.82.
13. On or about February 26, 2008 Plaintiff filed suit against Defendant for the Deficiency in the 131st Judicial District Court of Bexar County, Texas under Cause No. 2008-CI-03090; *The Blanco National Bank vs. Basil P. Casteleyn, Jr., Majestic Creations, Inc. and Kenneth Deckard* (the "Lawsuit").
14. On or about July 18, 2008 Debtor entered an Agreed Judgment with the 131st Bexar County District Court.
15. After reviewing the Defendant's schedules filed in the bankruptcy proceeding and obtaining testimony from the Debtor at the meetings of creditors, Plaintiff discovered Defendant obtained the September 22, 2006 loan and Reinstatement from Plaintiff by:

- a. Using a materially false written statement concerning the Defendant's financial condition, published by Defendant with intent to deceive Plaintiff, upon which Plaintiff reasonably relied.

16. Plaintiff reasonably relied upon the fraudulent conduct and the set forth above and is damaged by Defendant's actions to the extent of \$354,295.82.

WHEREFORE, Plaintiff respectfully requests that the Court determine that Defendant's obligations and debts to Plaintiff, including, but not limited to, the amounts listed above and all appropriate interest, costs and attorney's fees are excepted from discharge pursuant to 11 U.S.C. § 523(a)(2)(B), and for such other relief as the Court deems just.

Dated: November 10, 2010.

Respectfully Submitted,

HAYDEN & CUNNINGHAM, PLLC
Attorneys at Law
7750 Broadway
San Antonio, Texas 78209
Telephone (210) 826-7750
Facsimile (210) 822-0916

/s/ D. WADE HAYDEN
State Bar No. 00784230
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served by electronic filing or other means on the 10th day of November, 2010 to the parties listed below:

Debtor's Attorney:

Chance M. McGhee
Davis Law Firm
909 NE Loop 410, Suite 100
San Antonio, Texas 78209

Debtor:

Basil Paul Casteleyn
1826 Mountjoy
San Antonio, Texas 78232

CMRRR #7010 1670 0000 0777 2371

Chapter 7 Trustee:

John Patrick Lowe

Chapter 7 Trustee

318 E. Nopal

Uvalde, Texas 78801

United States Trustee:

United States Trustee

P.O. Box 1539

San Antonio, Texas 78295-1539

/s/ D. WADE HAYDEN